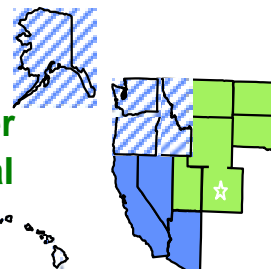


## U.S. Army Environmental Center Western Regional Environmental REGION IX - AUGUST 1999



# WESTERN REGION REVIEW

This publication provides current information on significant regulatory and legislative developments and related information in the Federal Region IX area (Arizona, California, Hawaii, and Nevada) that affect U.S. Army activities and operations. We appreciate your feedback and encourage you to submit suggestions for future discussion. Please contact us at the Western Regional Environmental Office, ATTN: SFIM-AEC-WR, Building 111, Commerce City, CO 80022-1748, commercial (303) 289-0125, DSN: 749-2125, FAX: (303) 289-0272, or e-mail: [redgerto@pmrma-emh1.army.mil](mailto:redgerto@pmrma-emh1.army.mil).

### WESTERN REGIONAL REVIEWS AVAILABLE ON THE INTERNET

Current and past issues of the *WESTERN REGIONAL REVIEW* for Regions VIII, IX, and X are available on the Internet at <http://aec.army.mil/prod/usaec/ro/western/updates/wupdates.htm>.

## FEDERAL REGULATORY DEVELOPMENTS

### Clean Air Act (CAA):

#### **EPA Announces Strategy to Reduce Air Toxins**

As part of the national air toxics program, the EPA has announced a strategy to reduce toxic air emissions in hundreds of areas across the country. Toxic air pollutants include those known or suspected to cause cancer or other serious health problems. The new strategy identifies 33 toxic air pollutants, such as benzene, mercury, and polychlorinated biphenyls (PCBs), that present the greatest threat to public health. This strategy, required by the CAA, includes goals to reduce cancer risks by 75 percent, to substantially reduce non-cancer risks, and to address areas where low-income and minority communities may be disproportionately affected by air toxic pollutants. The strategy outlines how the EPA will work in partnership with State, local and Tribal governments to monitor air toxic levels and develop plans and actions to reduce toxic air pollution. The strategy lists 13 new industrial categories targeted for reductions over the next five years. The final strategy will appear soon in the Federal Register, but can be accessed on the Internet at <http://www.epa.gov/ttn/uatw/urban/urbanpg.html> or by calling the EPA at (919) 541-5497.

#### **Revised Regulations Concerning Constructed or Major Restructured Sources**

On 27 December 1996, the EPA published a rule in the Federal Register implementing certain provisions in Section 112(g) of the CAA. After the effective date of that rule, all owners or operators of major sources of hazardous air pollutants (HAP) that are constructed or reconstructed are required to install maximum achievable control technology (MACT) (unless specifically exempted), provided they are located in a State with an approved Title V permit program. When no applicable federal emission limitation has been promulgated under Section 112(d), the CAA requires the permitting authority to determine a MACT emission limitation on a case-by-case basis. If the permitting authority has not yet established procedures for requiring MACT on constructed or reconstructed major sources by the required date, the rule provides that the EPA Regional Administrator will determine MACT emission limitations on a case-by-case basis for a period of up to one year. This action amends the rule governing constructed or reconstructed major sources, by providing a longer time period (up to 30 months) during which the EPA Regional Administrator may determine MACT emission limitations on a case-by-case basis, if the permitting authority has not yet

established procedures for requiring MACT on constructed or reconstructed major sources. This action is needed in order to ensure that major sources can obtain MACT determinations required for construction or reconstruction in those jurisdictions where permitting authorities require extra time to establish procedures to implement the Section 112(g) rule. This final rule amendment will be effective on 30 July 1999, unless the EPA receives adverse comments. Contact the EPA at 919)541-0102 for more information.

### **Endangered Species Act (ESA):**

#### **Proposal to Delist the Bald Eagle**

The U.S. Fish and Wildlife Service (FWS) proposes to remove the bald eagle (*Haliaeetus leucocephalus*) from the List of Endangered and Threatened Wildlife in the lower 48 States of the United States. Available data indicate that this species has recovered due in part to habitat protection and management actions initiated under the Endangered Species Act. It is also due to reduction in levels of persistent organochlorine pesticides such as DDT occurring in the environment. Section 4(g) of the ESA requires the FWS to monitor recovered species for at least 5 years following delisting. This rule describes the proposed post-delisting monitoring plan for bald eagles. Removal of the bald eagle as a threatened species under the ESA will not affect the protection provided under the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and many other state laws. Comments from all interested parties concerning the proposal to delist the bald eagle in the lower 48 States must be received by 5 October 1999. Comments from all interested parties on the collection of information from the public during the 5-year monitoring period will be considered if received on or before 7 September 1999. Comments may be sent to the FWS Internet site at <http://www.fws.gov/r3pao/eagle/> or by calling (309) 793-5800 x 524.

#### **Update on Listing Status of the Canada Lynx**

The FWS has extended the time to make a decision on the proposal to list the contiguous United States distinct population segment of the Canada lynx (*Lynx canadensis*) as a threatened species. The new deadline for final action on the proposed rule to list the contiguous United States population segment of the Canada lynx is extended from 8 July 1999, to 8 January 2000. The FWS will use the 6-month extension to obtain and review new information anticipated to be forthcoming in a scientific report on the Canada lynx from the U.S. Forest Service's Rocky Mountain Research Station. The FWS will reopen the public comment period to accept comment on the science report when it becomes available and will announce the dates of the new public comment period in the Federal Register. For additional information, contact the FWS at (406) 449-5225.

### **Resource Conservation and Recovery Act (RCRA):**

#### **Hazardous Waste Program Modified to Include Lamps**

The EPA announces a final rule that adds hazardous waste lamps to the federal list of universal wastes regulated under RCRA. Handlers of universal wastes are subject to less stringent standards for storing, transporting, and collecting these wastes. Data available to EPA indicate that many fluorescent and high intensity discharge (HID) lamps exhibit the toxicity characteristic (TC) for mercury because of the use of that compound in producing these lamps. Some HID and other types of lamps may also exhibit the TC for lead, principally because of the use of lead solder. Previously, generators of spent lamps that exhibited hazardous waste characteristics were subject to the RCRA Subtitle C hazardous waste management requirements. The EPA states that regulating spent hazardous waste lamps as a universal waste under 40 CFR Part 273 will lead to better management of these lamps and will facilitate compliance with hazardous waste requirements. The final rule is an attempt to streamline the Subtitle C management requirements for hazardous waste lamps. This final rule is effective on 6 January 2000. For additional information, contact the RCRA Hotline at (800) 424-9346, or view the rule on-line at the EPA's Internet site at <http://www.epa.gov/epaoswer/osw/hazwaste.htm#id>.

**Miscellaneous:****Final Rule Revises Administrative Enforcement Procedures**

The EPA has revised its Consolidated Rules of Practice, which are the procedures to assess administrative penalties, issue compliance or corrective action orders for violations of environmental regulations, and revoke, terminate or suspend certain permits. The EPA believes the revisions to the procedures will eliminate inconsistencies and uncertainties in administrative enforcement proceedings without compromising the regulated community's right to fair and impartial hearings. The revisions also include better, easy-to-understand language and provide for a more efficient resolution process. The new rule will appear in the Federal Register soon, and is available by calling (202) 564-2614 or via the Internet at <http://www.epa.gov/oeca/registat2.html>.

**CONFERENCES AND SYMPOSIUMS**

- **31 August - 1 September 1999: West Coast Beach Conference - San Diego, CA.** The EPA is sponsoring a beach conference that will focus around key issues in beach water monitoring and public notification of beach advisories and closings. Topics will include microbial indicators of water quality, water quality standards, water quality monitoring and modeling, beach advisories and closings, and risk assessment and communication. For more information on conference agendas and registration, visit the Internet site at <http://www.epa.gov/ost/beaches/meeting.html>.
- **8-11 November 1999: Unexploded Ordinance (UXO) Conference - Wailea Resort, HI.** This conference will focus on field UXO issues including technology, equipment, risk management, quality control/assurance, material management, site restoration and reuse. Discussion, identification, and demonstration of ideas for immediate, near, and/or long term incorporation into the DoD's largest UXO project on Kaho'olawe are sought. Papers and demonstrations of a general nature to UXO field operations are also sought and encouraged. All conference attendees will be invited to visit the island of Kaho'olawe to view first-hand the site's environment and challenges to cleanup, restoration, and use. The U.S. Navy and Parsons-UXB Joint Venture will participate in the conference. Download registration materials from <http://www.efdpac.navfac.navy.mil/> or by calling (808) 474-0559 x 221.

**ARIZONA*****Regulatory Developments*****Air Quality:**

- **Final Rule: State Implementation Plan.** The EPA is approving under the Clean Air Act (CAA) a revision to the Arizona State Implementation Plan (SIP) reflecting Arizona State legislation that provides for the expeditious implementation of best management practices to reduce fugitive dust from agricultural sources in the Maricopa County (Phoenix) PM-10 nonattainment area. Because the EPA is approving the State legislation as meeting the reasonably available control measure (RACM) requirements of the CAA, the EPA is also withdrawing a federal implementation plan (FIP) commitment, promulgated under section 110(c) of the Act, to adopt and implement RACM for agricultural fields and aprons in the Maricopa area. The effective date of the final rule is 29 July 1999. Contact the EPA at (415) 744-1286 for additional information.

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**CALIFORNIA**

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***Legislative Developments***

The 1999-2000 California Legislature convened on 7 December 1998 and is scheduled to adjourn on 30 November 2000.

**Assembly Bill 50: Water Quality and Pollution Prevention**

**Summary:** Authorizes the State Water Resources Control Board and regional water quality control boards to require that an application for waste discharge requirements include a prescribed pollution prevention plan. Requires the State Board to incorporate the plans as part of the waste discharge requirements for specific dischargers. Requires that the State Board adopt regulations establishing specific standards for the issuance of waste discharge requirements. Prohibits the Board from prescribing waste discharge requirements for publicly owned treatment works (POTWs) unless the Board determines the POTW requires discharge monitoring reports from its significant industrial users. Requires significant industrial users to submit discharge monitoring reports to a POTW up to once per month. Requires the Board to prescribe effluent limitations as part of the waste discharge requirements of a POTW. Authorizes a POTW to require pollution prevention plans as part of the pretreatment requirements applicable to significant industrial users.

**Status:** Introduced before the Assembly on 7 December 1998. Referred to the Committee on Environmental Safety and Toxic Materials on 3 March. Amended by Committee on 18 March and referred to the Committee on Appropriations on 23 March. The bill was suspended until a later date on 28 April. Passed out of committee on 2 June and referred to the Committee on Environmental Quality on 7 June. Amended in Committee on 21 June 1999.

**Outlook:** Too early to predict prospects for passage. Passage of this bill would require federal facilities to audit all pollutants and provide a cost analysis for pollution prevention plans.

**Assembly Bill 241: Hazardous Waste Identification**

**Summary:** Deletes the requirement under current law that the hazardous waste code identification system require hazardous wastes that are identified pursuant to the RCRA criteria, but that are not regulated under RCRA, to be identified by a RCRA code. Prohibits the revised code system from requiring non-RCRA hazardous wastes to be identified by a RCRA hazardous waste code.

**Status:** Introduced before the Assembly on 28 January. Referred to Assembly Environmental Safety and Toxic Materials Committee on 4 February. Amended in Committee on 3 March and referred to the Committee on Appropriations on 23 March. Passed the Assembly on 22 April and transmitted to the Senate. Read on the Senate floor and referred to the Committee on Environmental Quality on 28 April. A hearing was held on 21 June 1999.

**Outlook:** Prospects for passage appear favorable. Legislative staff indicate no opposition to the bill in either chamber.

**Assembly Bill 264: Hamilton Army Airfield**

**Summary:** Authorizes the City of Novato to pay to any other taxing agency with territory located within a redevelopment project area within the boundaries of the Hamilton Army Airfield in the City of Novato any amounts of money that in the agency's determination are appropriate to alleviate any financial burden or detriment caused to the taxing agency by the redevelopment project.

**Status:** Introduced before the Assembly on 3 February. Referred to Assembly Housing and Community Development Committee on 12 February. Amended in Committee on 16 March. A hearing was held on 19 May. Passed the Assembly on 10 June and the Senate on 14 June. Transmitted to the Governor for his consideration on 15 June 1999.

**Outlook:** Signed into law by Governor Davis on 28 June 1999. The Airfield was closed under BRAC and certain portions of the former base are being developed for residential housing and infrastructure bonds are being issued by the City of Novato. Other portions are under wildlife and wetland restoration plans and also include Coast Guard and Veterans Administration housing plans.

**Assembly Bill 399: Wetlands Development Permitting**

**Summary:** Revises provisions to require that every coastal development permit issued for any development within the coastal zone include a specified finding pertaining to public access and public recreation policies. Current law, the California Coastal Act of 1976, requires that any person wishing to perform or undertake any development in the coastal zone, as defined, obtain a coastal development permit, except as provided. The Act also requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone include a specific finding that the development is in conformity with specified public access and public recreation policies.

**Status:** Introduced before the Assembly on 12 February 1999. Referred to the Committee on Natural Resources on 25 February. A hearing scheduled for 5 April 1999 was cancelled by the bill's sponsor.

**Outlook:** Prospects for passage are unclear.

**Assembly Bill 511: Nonpoint Source Pollution (I)**

**Summary:** Defines specified terms for purposes of the California Coastal Act of 1976 relating to nonpoint source pollution and requires that the specified access policies be implemented to take into account the need to reduce nonpoint source pollution. Revises specified coastal protection policies contained in the Act to encourage various management measures to prevent nonpoint source pollution. Requires that new development in the coastal zone comply with a specified nonpoint source management plan prepared pursuant to federal law. Requires that the California Coastal Commission prepare, implement, and monitor the plan known as the "Polluted Runoff Plan of the California Coastal Commission," annually and in a manner that ensures coordination among federal, state and local agencies, and the most efficient use of limited fiscal resources by those agencies.

**Status:** Introduced before the Assembly on 18 February and referred to Committee on Natural Resources on 4 March. Hearing held, reported from Committee and referred to Assembly Appropriations Committee on 5 April. Amended in Committee on 26 April. Amended in committee on 1 June and passed the Assembly on 3 June. Referred to the Senate Committee on Natural Resources and Wildlife on 17 June 1999.

**Outlook:** Prospects for passage are favorable. Legislative staff indicate no opposition at the committee hearing. Staff add that current law does not provide for runoff regulation by the Coastal Commission. The Commission controls development along the state's coastal zone area. Passage of this bill would likely result in addition reporting requirements from federal facilities.

**Assembly Bill 604: Nonpoint Source Pollution (II)**

**Summary:** Pertains to nonpoint source pollution. Requires that the State Water Resources Control Board, in consultation with the California Coastal Commission and the State Department of Health Services, establish measurable performance goal, to carry out the state's nonpoint source pollution program.

**Status:** Introduced before the Assembly on 19 February and referred to the Committee on Natural Resources on 23 March. Amended in committee on 26 May and passed the Assembly on 2 June. Referred to the Senate Committee on Natural resources and Wildlife on 23 June 1999.

**Outlook:** Likely to be considered. Passage of this bill would implement stricter discharge standards and likely effect federal facility operations.

**Assembly Bill 626: Endangered Species**

**Summary:** Pertains to the incidental taking of endangered species. Deletes the repeal date of existing law, providing that if any person obtains an incidental take statement under the federal Endangered Species Act from the Secretary of the Interior or the Secretary of Commerce, no further authorization or approval is necessary under the California Endangered Species Act for that person to take that species. Requires that person to notify the Director of the California Fish and Game Department.

**Status:** Introduced before the Assembly on 19 February and referred to the Committee on Water, Parks and Wildlife on 8 March. A hearing was scheduled for 13 April 1999, but was canceled by the sponsor.

**Outlook:** Prospects for passage are unclear. The sponsor was instrumental several years ago in passing incidental takings legislation, over the opposition of the environmental groups and certain legislators. It is expected that this bill will encounter strong opposition from the same groups.

**Assembly Bill 710: Ammonium Perchlorate**

**Summary:** Requires that the Department of Health Services (DHS) establish a demonstration project regarding the removal of ammonium perchlorate from drinking water. Current law, the Calderon-Sher Safe Drinking Water Act of 1996, requires the DHS to submit to the legislature a Safe Drinking Water Plan for California once every 5 years, and to take all reasonable measures necessary to reduce the risk to the public health from waterborne illnesses in drinking water caused by cryptosporidium and giardia. The law also requires that the: (1) DHS adopt primary drinking water standards for contaminants in drinking water that are to be set at levels as close as possible to the corresponding public health goal; and (2) Office of Environmental Health Hazard Assessment perform a risk assessment and, based upon that risk assessment, adopt a public health goal for contaminants in drinking water based exclusively on public health considerations.

**Status:** Introduced before the Assembly on 24 February and referred to Environmental Safety and Toxic Materials Committee on 8 March. A hearing was scheduled for 13 April 1999, but was canceled by the sponsor.

**Outlook:** Likely to be considered. Perchlorate is the primary oxidizing component in solid rocket propellants, munitions, and fireworks. Staff indicate that perchlorate can interfere with the thyroid gland's ability to produce thyroid hormones, and can cause brain damage in fetuses, and at high concentrations it causes a potentially fatal form of anemia in adults. In 1997, DHS tested 500 wells for perchlorate and detected the chemical in 20 percent of these wells. DHS has already set a guidance standard of 18 ppb of perchlorate in drinking water. Supporters of adopting standards for perchlorate include the California Association of Environmental Health Administrators, Planning and Conservation League and Sierra Club of California.

**Senate Bill 25: Human Health and Air Toxics**

**Summary:** The 22 March amendments impose specified requirements on the California Air Resources Board (CARB) relating to the protection of infants and children from environmental health hazards. Requires the CARB to carry out an ongoing review of criteria air pollutants and toxic air contaminants pursuant to specified schedules. Creates the Office of Children's Environmental Health and Protection within the Environmental Protection Agency to serve as chief advisor to the Secretary for Environmental Protection and to the Governor on matters relating to public health and environmental protection as it relates to children. Requires the Board to assess: (1) exposure patterns among infants and children that are likely to result in disproportionately high exposure to ambient air pollutants in comparison to the general population; (2) special susceptibility of infants and children to ambient air pollutants in comparison to the general population; (3) the effects on infants and children of exposure to ambient air pollutants and other substances that have a common mechanism of toxicity; and (4) the interaction of multiple air pollutants on infants and children, including the interaction between criteria air pollutants and toxic air contaminants.

**Status:** Introduced before the Senate on 7 December 1998 and referred to the Senate Committee on Rules 6 January. Reported from Committee and referred to the Committee on Environmental Quality on 24 March. Amended in Committee on 28 April. Reported from committee and amended on the Senate floor on 1 June. Passed the Senate on 2 June. Referred to the Assembly Committees on Natural resources and Environmental Safety and Toxic Materials on 21 June 1999.

**Outlook:** Likely to be considered. The sponsor introduced this bill in 1997 but failed to achieve consensus to have it pass by the end of the 1998 session; this bill does not have the teeth that last session's AB 278 had. SB 25 requires the state to review air quality standards to determine if they adequately protect children's health and to revise those standards if they do not. The bill does not spell out what will be required of state agencies to carry out provisions of the bill. Governor Davis has indicated that he would sign the bill should it pass the Legislature.

**Senate Bill 89: Environmental Equity/Justice**

**Summary:** Requires the Secretary for Environmental Protection, not later than 1 April 2000, to convene a Working Group on Environmental Justice, comprised of representatives from each environmental agency, for the purpose of: (1) identifying disproportionately high and adverse human health or environmental effects on minority populations or low-income populations; and (2) providing guidance to state agencies that implement, administer, and enforce environmental laws in the state. Requires each environmental agency, in cooperation with the Working Group on Environmental Justice, to take specific actions to

develop an agencywide strategy to identify and address issues relating to environmental justice. Defines "environmental justice" as the fair treatment of people of all races, cultures, and income levels with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

**Status:** Introduced before the Senate on 7 December 1998. Referred to the Senate Committee on Environmental Quality on 6 January. Amended in Committee and referred to the Committee on Appropriations on 5 April. A hearing was held on 10 May 1999.

**Outlook:** Likely to be considered. Similar legislation passed during the previous several legislative sessions, but was vetoed by former Governor Pete Wilson. The sponsor is optimistic that the legislation will pass this session and that Governor Gray Davis (D) will sign it. Sponsor expects support from the Sierra Club and Communities for a Better Environment.

#### **Senate Bill 115: Human Health and Environmental Equity/Justice**

**Summary:** Requires the Office of Planning and Research to recommend proposed changes in the guidelines used in implementing the California Environmental Quality Act (CEQA) to provide for the identification and mitigation by public agencies of disproportionately high and adverse environmental effects of projects on minority populations and low-income populations by 1 January 2001. Requires that the Office, in consultation with other state agencies, review its available databases and other available databases and information to identify affected communities and populations by 1 January 2001.

**Status:** Introduced before the Senate on 17 December 1998. Referred to the Senate Committee on Environmental Quality on 7 January. Amended in Committee on 10 March and referred to the Committee on Appropriations on 5 April. A hearing was held on 10 May. Referred to the Committee on Natural resources on 3 June and amended on 23 June 1999.

**Outlook:** Likely to pass and be signed by Governor Davis. Similar legislation passed during the previous sessions but was vetoed by former Governor Wilson.

#### **Senate Bill 136: Air Permitting**

**Summary:** Provides that the City of Los Angeles is fully responsible for the costs associated with the implementation of air quality mitigation measures within the Owens Valley Planning Area. Requires that the mitigation measures be implemented so that the Planning Area attains federal ambient air quality standards by December 31, 2006. Requires that the state Controller deduct compliance costs pertaining to the Owens Dry lake Planning Area from any funding directed to Los Angeles until costs are recovered. Deletes the prohibition on the: (1) air quality mitigation measures affecting the right of the City of Los Angeles to produce, divert, store or convey water; and (2) Great Basin Unified Air Pollution Control District's authority regarding water production activities of the City. Authorizes the City to bring a judicial action to challenge a measure or fee imposed by the District.

**Status:** Introduced before the Senate on 4 January and referred to the Committee on Environmental Quality on 20 January. A Committee hearing has been scheduled for 19 April. Amended in Committee on 27 April. Hearing held and reported from Committee on 17 May. Amended on the Senate floor on 27 May and passed the Senate on 1 June. Referred to the Assembly Committee on natural resources on 21 June 1999.

**Outlook:** Prospects for passage are unclear. Military operations and public health at China Lake have been adversely impacted for years by air pollution emanating from the Owens Dry Lake bed. Funding for mitigation measures will be of benefit to military interests in the region.

#### **Senate Bill 212: Inspection and Maintenance Programs**

**Summary:** Establishes an enhanced emissions and inspection program in any district of origin of upwind emissions, any part of which: (1) is classified the EPA as a nonattainment area for ozone; and (2) has been determined by the California Air Resources Board (CARB) to make an overwhelming or significant contribution to downwind ozone ambient air pollutant levels in a different district that is not in attainment.

**Status:** Introduced before the Senate on 20 January and referred to the Senate Committee on Transportation on 27 January. Reported from Committee and referred to the Committee on Appropriations on 20 April. Hearing held and bill held in Committee on 10 May 1999.

**Outlook:** Prospects for passage are unclear. Similar legislation failed to pass last session.

**Senate Bill 227: Water Quality**

**Summary:** Requires the California Coastal Commission and the City of Monterey to: (1) contract with the State Water Resources Control Board to prepare a model for urban nonpoint source pollution protection; and (2) make the program available to specific local coastal governments. Requires that the Commission and the Board enforce a coastal nonpoint source pollution control program with specified components. Requires the development and implementation of management measures for nonpoint source pollution that protect and improve the quality of coastal waters. Requires the Commission to recommend to the Office of Planning and Research (OPR) guidelines relating to watershed, water quality, and nonpoint source pollution impacts of projects. The OPR will submit recommendations to the Secretary of the California Resources Agency.

**Status:** Introduced before the Senate on 26 January and referred to the Senate Committees on Natural Resources and Water and Environmental Quality on 3 February. Amended in Committee and referred to the Committee on Appropriations on 23 March. A hearing was held and the bill was held in Committee on 17 May. Reported from committee and passed the Senate on 2 June. Referred to the Assembly Committees on Water, parks, and Wildlife and Natural Resources on 21 June. Amended in Committee on 23 June 1999.

**Outlook:** Prospects for passage are unclear. Similar legislation failed to pass last session and the current bill is being held on the Senate suspense file for consideration at a later date.

**Senate Bill 231: Cleanup Liability**

**Summary:** Exempts public vessels from certain requirements under the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act. The Act prohibits the operation of a nontank vessel of 300 gross registered tons or greater in the marine waters of the state unless the owner or operator prepares and submits an oil spill contingency plan to the administrator for oil spill response, in accordance with prescribed procedures and requirements, and the plan is approved. Defines "public vessel" as a vessel owned or bareboat chartered and operated by the United States, or by a state or political subdivision, or by a foreign nation, except when the vessel is engaged in commerce.

**Status:** Introduced before the Senate on 25 January and referred to the Senate Committee on Local Government on 3 February. Passed out of Committee and re-read on the Senate floor on 4 March 1999; placed on the Senate consent calendar. Amended on the Senate floor and re-referred to the Committee on Local Government on 6 April 1999.

**Outlook:** Too early to predict prospects for passage.

**Senate Bill 390: Water Quality**

**Summary:** Under the Porter-Cologne Water Quality Control Act, the Water Resources Control Board and the California regional water quality control boards are among the principal agencies with authority over water quality. The Act requires each person for whom waste discharge requirements have been prescribed to submit annual fees and filing fees, with specified fee limits established by the state board. Persons discharging waste are required to file with the appropriate regional board a report of the discharge and the discharge is subject to waste discharge requirements prescribed by that regional board. Persons are generally prohibited from initiating a new discharge of waste, or making any material changes in any discharge of waste, prior to the filing of the waste discharge report, and after the filing of that report unless waste discharge requirements have been prescribed or, under certain circumstances, 120 days have elapsed since the filing of that report. The Act authorizes the regional boards to waive these requirements as to a specific discharge or type of discharge. This bill would authorize the regional boards to waive these requirements as to a specific discharge or type of discharge if the waiver is not against the public interest and the term of the waiver does not exceed 5 years. The Act provides that a person may be liable civilly in accordance with prescribed provisions if that person intentionally or negligently violates prescribed orders, or, in violation of prescribed requirements, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance, or causes or permits any oil or residuary product of petroleum to be deposited in the waters of the state, except in accordance with the Act.

**Status:** Introduced in the Senate on 12 February and assigned to the Committee on Environmental Quality. Amended in Committee and re-referred to the Committee on Environmental Quality on 13 April. Passed the Senate on 2 June and transmitted to the Assembly. Introduced in the Assembly and held at



the floor on 2 June. Referred to the Assembly Committees on Environmental Safety and Toxic Materials and Judiciary on 21 June 1999.

**Outlook:** Per the U.S. Navy, SB 390 would have prevented the Navy from obtaining the necessary NPDES permits to berth their ships in San Diego Bay. The bill's sponsor was invited to tour Navy facilities in San Diego where environmental personnel demonstrated NPDES programs that have improved water quality in the bay. The Navy also testified at a Senate Environmental Quality Committee hearing regarding their concerns, and was successful in getting the sponsor to amend certain provisions of the bill.

#### **Senate Bill 635: Drinking Water Contaminants**

**Summary:** Requires the Office of Environmental Health Hazard Assessment (OEHHA) to prepare and publish an assessment of the risks to public health posed by each contaminant for which the department proposes a primary drinking water standard. Requires that the risk assessment contain an estimate of the level of the contaminant in drinking water that may cause or contribute to adverse health effects that would be known as the public health goal for the contaminant. Revises the criteria upon which the public health goal for each contaminant would be based. Current law requires that the OEHHA shall perform a risk assessment and, based upon that risk assessment, adopt a public health goal for contaminants in drinking water based exclusively on public health considerations for each drinking water contaminant regulated, or proposed to be regulated, by the Department of Health Services pursuant to a primary drinking water standard.

**Status:** Introduced before the Senate on 24 February and referred to Senate Environmental Quality Committee on 10 March. Amended in Committee on 3 May. A hearing was held, reported from Committee, and referred to the Senate Committee on Appropriations on 10 May. Passed the Senate on 27 May and referred to the Assembly Committee on Environmental Safety and Toxic Materials on 10 June and amended on 15 June 1999.

**Outlook:** Prospects for passage look favorable as there was little opposition in the Senate.

#### **Senate Bill 755: CEQA Impact Fees**

**Summary:** Provides that an environmental document prepared pursuant to the California Environmental Quality Act (CEQA) is not valid for use in a subsequent project if the certification of the document occurred more than 5 years before the filing of an application for that subsequent project. Requires a lead agency, under the CEQA, to find that a project may have a significant impact on the environment and would require an environmental impact report to be prepared for a project if the lead agency makes specified findings. Authorizes a lead agency to refuse to approve a project if it makes specified determinations.

**Status:** Introduced before the Senate on 24 February and referred to the Committee on Environmental Quality on 10 March. Amended in Committee on 5 April. Reported from Committee and referred to the Committee on Appropriations on 19 April. Amended in Committee on 27 April. A 17 May 1999 Committee hearing was canceled by the sponsor. Amended in committee on 2 June and passed the Senate on 3 June. Referred to the Assembly Committee on Natural Resources on 21 June and amended on 7 July 1999.

**Outlook:** Likely to be considered. Passage of SB 755 has the potential to delay CEQA reviews concerning military projects by State agencies. The California Chamber of Commerce opposes the bill, calling it one of the "ten worst bills" of this session and asserting that it will raise the cost of doing business in the State.

#### **Senate Bill 1099: Defense Retention and Conversion Act**

**Summary:** This bill would establish the California Defense Retention and Conversion Council in the Trade and Commerce Agency. The bill would set forth the membership and duties of the council in regard to defense retention and conversion and military base reuse activities in the state, including the administration of a Defense Retention Grant Program and specified activities developed by the former California Defense Conversion Council.

**Status:** Introduced before the Senate on 26 February and referred to the Committee on Government Organization on 18 March. A Committee hearing is scheduled for 27 May. Amended on 9 June and passed the Senate on 10 June 1999.

**Outlook:** Likely to be considered. The bill creates an increased effort to retain military installations and facilities by resolving conflicts between State government and the DoD.

**Senate Bill 1269: Diesel Exhaust**

**Summary:** New provisions require the Office of Environmental Health Hazard Assessment (OEHHA) to conduct the necessary scientific studies to evaluate the exposure of the residents of this state to vehicular diesel exhaust in a range of reasonably anticipated circumstances, and to make this exposure information available. Current law, as provided by the Governor's Reorganization Plan No. 1 of 1991, authorizes the OEHHA to perform specified activities relating to the assessment of the health risk of chemicals on humans, and to provide toxicological and scientific consultation. Original version authorized a lead agency, in consultation with the State Air Resources Board, to adopt specific regulations that provide a uniform, statewide warning requirement for environmental exposures to diesel engine exhaust.

**Status:** Introduced before the Senate on 26 February and referred to the Committee on Environmental Quality on 17 March. Reported from Committee and referred to the Committee on Appropriations on 19 April. Amended in Committee on 27 April. Hearing held and the bill was reported from Committee on 17 May. Amended in committee on 28 May and passed the Senate on 2 June. Introduced before the Assembly and referred to the Committee on Transportation on 10 June 1999.

**Outlook:** Likely to pass. Legislative staff state that the sponsor hopes to develop a solution for community-wide noticing for diesel exhaust and prevent future lawsuits. According to agency staff, the CARB extended the comment period to the middle of March for its draft diesel-emission risk management guidance, the first part of a multiple report plan to reduce diesel-engine emissions. The plan would affect both mobile and stationary diesel sources to determine potential exposure to and impacts on general populations. Last year, CARB listed diesel as a toxic air contaminant (TAC), which initiated the regulatory activity. Legislative staff note that the Health Effects Institute (HEI) is expected to issue its own evaluation of risk factors associated with diesel emissions. The EPA is likely to issue its risk factor estimates soon.

### ***Regulatory Developments***

**Air Quality:**

- **Direct Final Rule: State Implementation Plan.** The EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the definitions in Modoc County Air Pollution Control District (MCAPCD), Siskiyou County Air Pollution Control District (SCAPCD), Tehama County Air Pollution Control District (TCAPCD), and Tuolumne County Air Pollution Control District (TUCAPCD). The intended effect of approving this action is to incorporate changes to the definitions for clarity and consistency and to update the Exempt Compound list in TCAPCD definition's rule to be consistent with the revised federal and state VOC definitions. This rule is effective on 30 August 1999, unless the EPA receives adverse comments. Contact the EPA at (415) 744-1189 for more information.
- **Final Rule: State Implementation Plan.** The EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the Federal Register on 16 April 1999. The revisions concern rules from the Monterey Bay Unified Air Pollution Control District (MBUAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate permitting of stationary sources in accordance with the requirements of the CAA. The EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas. This action is effective on 2 August 1999. Contact the EPA at (415) 744-1238 for additional information.
- **Proposed Rule: State Implementation Plan.** The EPA is proposing to approve the State Implementation Plan (SIP) submitted by the State of California for attaining the particulate matter (PM-10) national ambient air quality standards (NAAQS) in the Owens Valley Planning Area, along with the State's request for an extension to 31 December 2006 to attain the PM-10 NAAQS in the area. The EPA is proposing to approve the SIP revision and extension request under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals, SIPs for national primary and secondary

standards, and plan requirements for nonattainment areas. Contact the EPA at (415) 744-1227 for additional information.

#### **Endangered Species:**

- **Proposed Rule: Delisting of the Tidewater Goby.** The U.S. Fish and Wildlife Service (FWS), proposes to remove the northern populations of the tidewater goby (*Eucyclogobius newberryi*) from the list of endangered and threatened wildlife. The species is now classified as endangered throughout its entire range. The FWS has determined that there are more populations than were known at the time of the listing, that the threats to those populations are less severe than previously believed, and that the tidewater goby has adequate ability to recolonize habitats from which has been temporarily displaced. This proposal would remove the northern populations of the tidewater goby from protection under the Endangered Species Act. The Orange and San Diego counties' population of tidewater goby, which constitutes a distinct population segment, continues to be threatened by habitat loss and degradation, predation by non-native species, and variable streamflow conditions. Therefore, this distinct population segment will be retained as an endangered species on the List of Endangered and Threatened Wildlife. The FWS will accept comment on the proposal until 23 August 1999. Contact the FWS at (805) 644-1766 for additional information.
- **Notice: Availability of Draft Recovery Plan.** The FWS announces the availability for public review of a Draft Revised Recovery Plan for the Santa Cruz Long-Toed Salamander (*Ambystoma macrodactylum croceum*). The salamander occurs near the Pacific Coast in Monterey and Santa Cruz Counties, California. Comments on the draft revised recovery plan must be received on or before 7 September 1999 to receive consideration by the FWS. Contact the FWS at \*805) 644-1766 to obtain a copy of the draft Recovery Plan.

## **HAWAII**

### ***Regulatory Developments***

#### **Endangered Species:**

- **Notice: Availability of Draft Recovery Plan.** The U.S. Fish and Wildlife Service (FWS) announces the availability for public review of a draft Revised Recovery Plan for Hawaiian Waterbirds, Second Revision. The four waterbirds covered by this plan are: Hawaiian duck or koloa maoli (*Anas wyvilliana*), Hawaiian coot or alae ke'oke'o (*Fulica alai*), Hawaiian moorhen or alae ula (*Gallinula chloropus sandvicensis*), and the Hawaiian stilt or ae'o (*Himantopus mexicanus knudseni*). All the birds are listed as endangered species by the U.S. government and the State of Hawaii and require wetlands for their survival. These species are currently found on one or more of the eight main Hawaiian Islands (Niihau, Kauai, Oahu, Maui, Molokai, Lanai, Kahoolawe, and Hawaii). None of these species are thought to number more than 2,500 individuals, with the exception of the Hawaiian coot (estimated to range between 2,000 and 4,000 birds statewide). Comments on the draft revised recovery plan received by 7 September 1999 will be considered by the FWS. Contact the FWS at (808) 541-3441 to obtain a copy of the draft Recovery Plan.

## **NEVADA**

### ***Regulatory Developments***

No significant regulatory developments were noted for the State of Nevada during the reporting period.